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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA

9 PAUL MITCHELL,

No. C 11-02705 SBA (PR)

10 Petitioner,

11 v.

12 ANTHONY HEDGEPEETH, Warden,

13 Respondent.

**ORDER GRANTING PETITIONER A
FOURTH EXTENSION OF TIME TO
FILE HIS OPPOSITION TO MOTION TO
DISMISS; DENYING HIS OTHER
PENDING MOTION AS MOOT; AND
DENYING HIS SECOND MOTION FOR
APPOINTMENT OF COUNSEL**

14 _____ / (Docket nos. 26, 35, 38)
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16 Before the Court is Petitioner's motion entitled, "Order to Show Cause for a Preliminary
17 Injunction" (docket no. 26), which will be construed as a motion for an order allowing him access to
18 the Salinas Valley State Prison (SVSP) law library. He also requests a fourth extension of time in
19 which to file his opposition to Respondent's Motion to Dismiss.

20 Petitioner's opposition to Respondent's Motion to Dismiss is presently overdue. The Court
21 has granted Petitioner three prior extensions of time to file his opposition because he initially
22 informed the Court that lockdowns at SVSP prevented his access to the law library.

23 On December 27, 2012, Petitioner filed a motion for an order directing the California
24 Department of Corrections and Rehabilitation to allow him physical access to the SVSP law library
25 (docket no. 26).

26 In an Order dated February 15, 2012, the Court directed Respondent to respond to
27 Petitioner's motion for an order allowing him access to the SVSP law library.
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On February 27, 2012, Respondent filed his response. In that response, Respondent informed the Court that Petitioner had been transferred from SVSP to the R. J. Donovan Correctional Facility (RJDCF) on February 8, 2012. Respondent claims that, "[s]ince [Petitioner] is no longer housed at SVSP, his motion for an order allowing him access to the SVSP law library is now moot." (Feb. 27, 2012 Resp. at 1.) Respondent adds that "[P]etitioner has access to yard on Mondays, Tuesdays, and Fridays" and that he "should be able to go to the law library on those days." (Id. at 1-2.)

In Petitioner's declaration attached to his aforementioned motion for appointment of counsel, he acknowledges that he has since been transferred to RJDCF; however, he claims that his legal property has not yet arrived from SVSP. (Pet'r Decl. at 4.)

Accordingly, the Court DENIES as moot Petitioner's motion for an order allowing him access to the SVSP law library (docket no. 26); and GRANTS him a fourth extension of time in which to file his opposition to Respondent's Motion to Dismiss. The time in which Plaintiff may file his opposition will be extended up to and including **twenty-eight (28) days** from the date of this Order.

Respondent shall file a reply brief no later than **fourteen (14) days** after the date Petitioner's opposition is filed.

Also before the Court is Petitioner's second motion for appointment of counsel to represent him in this action (docket nos. 35, 38). The Court previously denied Petitioner's first request for appointment of counsel. For the same reasons, Petitioner's second request for appointment of counsel is DENIED.

Finally, Daniel Paramo, the current acting warden of the prison where Petitioner is incarcerated, has been substituted as Respondent pursuant to Rule 25(d) of the Federal Rules of Civil Procedure.

This Order terminates Docket nos. 26, 35 and 38.

IT IS SO ORDERED.

Dated: 6/6/12


SAUNDRA BROWN ARMSTRONG
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF
CALIFORNIA

PAUL MITCHELL,

Plaintiff,

v.

ANTHONY HEDGEPEETH et al,

Defendant.

Case Number: CV11-02705 SBA

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on June 12, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Paul Mitchell G-21965
Richard J. Donovan Correctional Facility (RJD)
California Department of Corrections and Rehabilitation
P.O. Box 794004
San Diego, CA 92179

Dated: June 12, 2012

Richard W. Wieking, Clerk
By: Lisa Clark, Deputy Clerk